state constitution. This feature only adds the question of interpretation. The fund was originally created for school purposes. In view of the many decisions as to what is a public purpose in taxation it would seem, that this decision which says that the creation of a teachers' pension fund is germane to the general purposes for which the tax was authorized is reasonable. An extended discussion of the constitutionality of teachers' pensions will be found in 11 MICH. L. REV. 451, and 12 MICH. L. REV. 105.

CONSTITUTIONAL LAW—TAXATION OF FOREIGN CORPORATIONS—PRIVILEGE OF DOING DOMESTIC BUSINESS.—A statute provided that every foreign corporation should pay the commonwealth, in addition to a tax imposed by a previous statute, an excise tax of one-hundredth of one per cent of the value of its capital stock in excess of $10,000,000, the entire authorized capital stock to be used for a measure of the tax. Plaintiff sought to recover money paid under such act. *Held,* the act is constitutional and the tax is collectible by the state. *International Paper Co.* v. *Commonwealth,* (Mass., 1917), 117 N. E. 246.

Cases in the early history of corporation law held that a state had the power to tax a foreign corporation for the privilege of engaging in domestic business, even though such corporation was engaged at the same time in interstate commerce. *Bank of Augusta* v. *Earle,* 13 Pet. 519; *Western Union Tel. Co.* v. *Alabama,* 132 U. S. 472. But in *Western Union Tel. Co.* v. *Kansas,* 216 U. S. 1, the court declared, a statute which taxed the foreign corporation by a graduated scale for the privilege of doing intrastate business, unconstitutional, as violative of the Fourteenth Amendment and burdening interstate commerce, because the tax was considered by the court as a tax upon the interstate business as well as the domestic business. See 8 MICH. L. REV. 572. Later, in *S. S. White Dental Mfg. Co.* v. *Massachusetts,* 231 U. S. 68, a tax for the same privilege with a fixed maximum of $2,000, the tax was held valid and the Kansas case is distinguished on the ground that the interstate and local business was not so connected as they were in the Kansas case. See 12 MICH. L. REV. 210. The instant case goes further, and the pendulum is swinging back to where it was in the early history of corporation law. In the principal case there was no maximum; a tax measured by the entire capital stock, though it had only a small portion of its property within the state, was to be paid for the privilege of doing domestic business. Inasmuch as the power to tax carries with it the power to destroy, this decision holds that the state may totally prohibit the doing of intrastate business by a foreign corporation carrying on interstate commerce. The case will undoubtedly be carried to the United States Supreme Court and it will be of interest to note whether the dissenting opinion by HOLMES, J., in the Kansas case will at last come into its own.

CONTRACTS—RESTRICTION UPON RESALE PRICE.—Plaintiff, as manufacturer of Ford Automobiles sued to restrain defendant "from engaging in what the plaintiff claims to be unfair practices, by which its rights are violated and the public is deceived." It appeared that defendant pretended to be a distributing

"agency" for Ford cars and sold them below the price stipulated in the contracts which plaintiff made with its authorized agents. *Held,* the judgment of the lower court dismissing plaintiff's bill, should be reversed and further proceedings ordered. *Ford Motor Co.* v. *Benj. E. Boone, Inc.* (C. C. A. 9th Circ., 1917), 244 Fed. 335.

The court based its ruling on the proposition that by using the recognized Ford trademarks and otherwise leading the public to believe it was an authorized agency the defendant was guilty of "unfair and deceptive practices" from which the plaintiff was entitled to protection. This had nothing whatever to do with validity of contracts between the plaintiff and its real agents; indeed the court expressly assumed for the sake of argument that such contracts were invalid. The court then, however, to what end is not clear, discussed the legality of the contracts. This is of interest in comparison with the case of the same plaintiff against the UNION MOTOR SALES CO., noted below. The contract here involved, unlike that in the *Union Sales Co.* case, specifically provided that title should not pass from the plaintiff, even though the full agent's price had been paid, until the plaintiff should have signed a bill of sale to some one purchasing a car for use, not merely for re-sale. It was contended that this reservation of title was "only an adroit attempt to avoid the effect of certain decisions" such as those on which the *Union Sales Co.* decision was based, and that it ran counter to the rule of such cases. The court held the reservation of title to be valid and effective and that the plaintiff could, therefore, legally limit the price at which cars might be sold to users. In discussing such cases as those in which the *Union Sales Co.* decision was based the court strongly indicates that the contracts involved in those cases were invalid because they effected "the exclusive control of a useful or desirable article of commerce" while the contracts in the present case covered only one type of desirable articles. The court cites no authority in support of the effect of its distinction, but its idea is probably the same as that more pertinently considered in *Ghirardelli Co.* v. *Hunsicker,* 164 Cal. 355.

CONTRACTS—RESTRICTION UPON RESALE PRICE—INVALID.—Plaintiff sued to restrain defendant from inducing authorized distributors of Ford automobiles to sell them at less than the price which they had contracted with plaintiff to maintain. *Held,* the injunction should be denied. *Ford Motor Co.* v. *Union Motor Sales Co.* (C. C. A. 6th Circ., 1917), 244 Fed. 156.

Refusal to grant the relief asked was predicated upon the proposition that the agreements not to resell below a fixed price were contrary to public policy and illegal, being an improper restraint of trade. "* * * It is the general and well-settled rule," said the court, "that a system of contracts between a manufacturer and retail dealers, by which the manufacturer, in connection with absolute sales of his product, attempts to control the resale prices for all sales, by all dealers, eliminating all competition, and fixing the amount which the ultimate purchaser shall pay, amounts to restraint of trade, and is invalid both at common law and, so far as it affects interstate commerce, under the SHERMAN ANTI-TRUST ACT." *Dr. Miles Medical Co.* v. *Park & Sons Co.,* 220